

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

O'SHEA MANN,

Plaintiff,

v.

A. GARCIA, et al.,

Defendants.

Case No. 1:21-cv-00764-EPG (PC)

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING THAT CERTAIN  
CLAIMS AND DEFENDANTS BE  
DISMISSED

(ECF Nos. 1, 13)

OBJECTIONS, IF ANY, DUE WITHIN  
FOURTEEN DAYS

ORDER DIRECTING CLERK OF COURT TO  
ASSIGN A DISTRICT JUDGE

Plaintiff O'Shea Mann ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action.

Plaintiff filed the complaint commencing this action on May 10, 2021. (ECF No. 1.) On July 7, 2021, the Court screened Plaintiff's complaint and found that Plaintiff stated claims against Defendants Garcia, Duran, Castro, Thompson, and Godfrey for excessive force in violation of the Eighth Amendment, and that Plaintiff failed to state any other claims. (ECF No. 13.) The Court gave Plaintiff thirty days to either: "a. File a First Amended Complaint; b. Notify the Court in writing that he wishes to proceed only on his claims against Defendants Garcia, Duran, Castro, Thompson, and Godfrey for excessive force in violation of the Eighth

1 Amendment; or c. Notify the Court in writing that he wants to stand on this complaint.” (*Id.* at  
2 18.) On July 19, 2021, Plaintiff filed a notice stating that he wishes to proceed only on the claims  
3 against Defendant Garcia, Duran, Castro, Thompson, and Godfrey for excessive force in violation  
4 of the Eighth Amendment. (ECF No. 14.)

5 Accordingly, IT IS ORDERED that the Clerk of Court is directed to assign a district judge  
6 to this case.

7 Further, for the reasons set forth in the Court’s screening order entered on July 7, 2021  
8 (ECF No. 13), and because Plaintiff has notified the Court that he wants to proceed only on the  
9 claims found cognizable in the screening order (ECF No. 14), it is HEREBY RECOMMENDED  
10 that:

- 11 1. All claims and defendants be dismissed, except for Plaintiff’s Eighth Amendment  
12 excessive force claims against Defendants Garcia, Duran, Castro, Thompson, and  
13 Godfrey; and
- 14 2. The Clerk of Court be directed to terminate Amabisca and Amanda Dillard as  
15 defendants on the docket.

16 These findings and recommendations will be submitted to the United States district judge  
17 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen  
18 (14) days after being served with these findings and recommendations, Plaintiff may file written  
19 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s  
20 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the  
21 specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834,  
838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

22 IT IS SO ORDERED.  
23

24 Dated: July 22, 2021

25 /s/ Eric P. Gray  
26 UNITED STATES MAGISTRATE JUDGE  
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